

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 2002-07

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-037-02

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED

Secretary of State
Filing Data

**For Filing
Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification ☐ Proposed ☐ Adopted By Agency ☒ Temporary ☐ Emergency ☐

Brief description of action: **Petition 2002-07 (LCB R037-02)** is a permanent amendment to NAC 445A.286 to 445A.292, the Water Pollution Control Treatment Works to update terminology. The regulation amends NAC 445A.289 and 445A.90 by removing the Grade V wastewater treatment operator requirements. Fees for Operator in Training in NAC 445A.287 are repealed and fees for late renewal is reduced. The reference to the Nevada Water Pollution Control Association is deleted and substituted with the term “designee”. The wastewater plant classification for the purpose of wastewater treatment operator certification is clarified. The requirements for wastewater facilities are amended to clarify the criteria for classification of operators. NAC 445A.291 “Plants for sewage treatment: certification of persons in responsible charge” is repealed.

Authority citation other than 233B: NRS 445A.425.

Notice date: August 7, August 12, August 14, August 20, August 21, August 27, 2002

Hearing date: September 11, 2002

Date of Adoption of Agency: September 11, 2002

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 2002-07 LCB File R-037-02
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445A. This regulation deals with amendments to the wastewater treatment operator certification program.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 2002-07 (LCB File R-037-02), was noticed on August 7, August 12, August 14, August 20, August 21, August 27, 2002 as a permanent regulation in the Las Vegas Review Journal and the Reno-Gazette-Journal newspapers. Regulatory workshops were conducted by the Nevada Division of Environmental Protection's Bureau of Water Pollution Control on March 7, 2002, in Carson City and March 4, 2002 in Las Vegas. The regulation was also advertised in the September 2000 issue of Certification News. The regulation was adopted by the State Environmental Commission as a permanent regulation on September 11, 2002. There was one public comment by a wastewater treatment operator supporting the petition and no written testimony received by the Commission during permanent adoption. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-9308, or writing to the Commission at 333 W. Nye Lane, Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing;	45
(b)	Testified at each hearing:	1
(c)	Submitted to the agency written comments:	0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices and public workshops. There was no affected business that provided oral or written comments at the hearing.

A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-9308 or writing to the Commission at 333 W. Nye Lane, Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted by the State Environmental Commission on September 11, 2002 with an amendment.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Estimated economic effect of the regulation on the business which it is to regulate;

The proposed amendments are not expected to have any economic short or long-term adverse impact upon the regulated community.

(b) Estimated economic effect on the public;

The proposed amendments are not expected to have any economic short or long-term adverse impact upon the public

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for implementation of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

This regulation is no more restrictive or stringent than federal requirements.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide for any new or increased fees.

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**FILED PERMANENT REGULATION OF THE STATE
ENVIRONMENTAL COMMISSION**

LCB File No. R037-02 SEC Petition 2002-07

Effective October 18, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-7, NRS 445A.425.

Section 1. NAC 445A.286 is hereby amended to read as follows:

445A.286 The provisions of NAC 445A.286 to 445A.292, inclusive, do not apply to:

1. A package plant for sewage treatment with a capacity of 5,000 gallons or less per day; or
2. Any other plant for sewage treatment *, including, without limitation, a septic system,* with a capacity of 10,000 gallons or less per day.

Sec. 2. NAC 445A.287 is hereby amended to read as follows:

445A.287 1. ~~[Each supervisor, assistant supervisor, foreman or shift operator]~~ *A person* responsible for the operation and maintenance of a plant for sewage treatment must be certified as an operator of a plant for sewage treatment.

2. To apply for certification as an operator of a plant for sewage treatment, a person must submit an application to the division *or its approved designee* that is accompanied by the appropriate fee. ~~[The division shall forward all applications to the board of certification of the Nevada Water Pollution Control Association for review.]~~

3. The following fees must be paid to the division:

Certification	Fee	Period
[Operator in Training]	\$30	1 year
Initial.	60	2 years
Reciprocal	75	2 years

4. The holder of a certificate must pay to the division a fee of \$20 for each duplicate certificate he requests. A fee of \$25 will be charged to any person whose check is returned to the division because of a lack of funds.

5. A holder of any certificate issued pursuant to the provisions of NAC 445A.286 to 445A.292, inclusive, may renew the certificate by submitting a fee of \$30 to the division ~~[. The renewal fee must be paid by]~~ not later than the expiration date of the certificate. Except as otherwise provided ~~[by]~~ *in* subsection 6, the holder of a certificate may renew his certificate after the expiration date of the certificate if he pays, in addition to the renewal fee, a late fee of ~~1~~:

~~—(a) If the renewal is not more than 1 year late, \$20.~~

~~—(b) If the renewal is more than 1 year late, \$30.]~~ *\$20. If the holder of a certificate does not renew the certificate within 1 year after the expiration date of the certificate, the holder of the certificate shall be deemed decertified.*

6. The holder of a certificate who is decertified ~~[by the board of certification of the Nevada Water Pollution Control Association]~~ may not renew his certificate.

7. The renewal of a certificate is effective for 2 years.

Sec. 3. NAC 445A.288 is hereby amended to read as follows:

445A.288 1. If ~~[possible,]~~ *the division chooses not to operate the program for the certification of operators of plants for sewage treatment,* the division shall enter into ~~[a contract with the board of certification of the Nevada Water Pollution Control Association]~~ *an agreement with an approved designee pursuant to which the designee agrees to operate [a program for the certification of operators of plants for sewage treatment.] the program.*

2. Any ~~[contract]~~ *agreement* entered into pursuant to subsection 1 must provide that the ~~[board of certification]~~ *designee* will:

- (a) Distribute application forms;
- (b) Evaluate applications;
- (c) Conduct examinations;
- (d) Evaluate the training, education and experience of the applicants;
- (e) Inform an applicant that the division has denied his application for certification or recommend that the division certify the applicant; and
- (f) Perform any other duty specified in the ~~[contract.]~~ *agreement.*

Sec. 4. NAC 445A.289 is hereby amended to read as follows:

445A.289 1. For the purpose of the certification program operated pursuant to the provisions of NAC 445A.284 and 445A.288, a plant for sewage treatment must be classified in accordance with the following schedule:

PLANT CAPACITY MGD							
-							
Treatment Process	0-1	1-10	5	10	20	30	Greater Than 30

PLANT CLASSIFICATION *based on the type of treatment process and plant capacity:*

	<i>0-0.1 MGD</i>	<i>0.11-1.0 MGD</i>	<i>1.1-5.0 MGD</i>	<i>5.1-10.0 MGD</i>	<i>10.1-20.0 MGD</i>	<i>Greater than 20.0 MGD</i>	
Stabilization Pond	I	I	I	I	II	III	III
Primary	I	I	II	III	III	IV	IV
Biofiltration	II	II	III	III	IV	IV	IV
Activated Sludge	III	III	III	IV	IV	IV IV	IV
Tertiary <i>and Reuse</i>	III	III	IV	IV	IV IV	IV IV	IV

2. As used in this section, “MGD” means millions of gallons per day.

Sec. 5. NAC 445A.290 is hereby amended to read as follows:

445A.290 1. The minimum grades of certification for operators of plants for sewage treatment are as follows:

PLANT CLASSIFICATION					
-					
Operator	I	II	III	IV	V
Responsibility					

GRADES OF CERTIFICATION *based on the classification of the plant:*

<i>Plant Classificatio</i>	<i>Plant Classificatio</i>	<i>Plant Classificatio</i>	<i>Plant Classificatio</i>
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	<i>n I</i>	<i>n II</i>	<i>n III</i>	<i>n IV</i>	
Supervisor	I	II	III	IV	IV
Assistant Supervisor	I	I	II	III	IV
Foreman	I	I	II	III	III
Operator	I	I	I	II	II

2. Any person, other than a supervisor or assistant supervisor, who is working as an operator of a plant for sewage treatment must be certified as at least a Grade I operator of a plant for sewage treatment, or obtain such certification within 1 year after the date on which he begins his employment at the plant for sewage treatment as such an operator.

3. As used in this section:

(a) "Assistant supervisor" means the person in direct responsible charge of the operations of a plant for sewage treatment in the absence of the supervisor.

(b) "Person in direct responsible charge" means a person who is responsible for all activities associated with the operations of a plant for sewage treatment and compliance with all applicable provisions of NRS and NAC relating to the operations of such a plant.

(c) "Supervisor" means the person in direct responsible charge of the operations of a plant for sewage treatment.

Sec. 6. NAC 445A.292 is hereby amended to read as follows:

445A.292 1. The division shall ~~issue~~ **renew** a provisional certificate as an operator of a plant for sewage treatment, without examination, *only* to ~~any person who is not certified but who holds the position of supervisor, assistant supervisor, foreman or shift operator in responsible charge of a plant for sewage treatment if the person:~~ **a person who:**

(a) Held ~~the position~~ **a provisional certificate** on July 1, 1991;

(b) Pays the appropriate fee; and

(c) Submits the proper application for certification.

2. A provisional certificate is valid until:

(a) The applicant's employment by that plant ceases for any reason; or

(b) The applicant assumes a position of employment at the plant that is different from the position he held on July 1, 1991.

Sec. 7. NAC 445A.291 is hereby repealed.

TEXT OF REPEALED SECTION

445A.291 Plants for sewage treatment: Certification of persons in responsible charge.

1. A supervisor, assistant supervisor, foreman and shift operator in responsible charge of a plant for sewage treatment must be certified at the appropriate grade if the plant is manned for more than 40 hours per week.
2. A person in responsible charge of the daily operation and maintenance of a plant for sewage treatment must be certified at the appropriate grade if the plant is manned for 40 hours or less per week.

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